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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,839	07/20/2006	Francois Lacombe	1606.75588	3455
24978	7590	09/07/2007		
GREER, BURNS & CRAIN 300 S WACKER DR 25TH FLOOR CHICAGO, IL 60606			EXAMINER HASAN, MOHAMMED A	
			ART UNIT 2873	PAPER NUMBER
			MAIL DATE 09/07/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/586,839	Applicant(s) LACOMBE ET AL.	
	Examiner Mohammed Hasan	Art Unit 2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☒ Claim(s) 16-18 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/2/2007</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Priority

1. Receipt of acknowledged of papers submitted under 35 U.S.C. 119 (a) – (d), which papers have placed in the file.

Oath/Declaration

2. Oath and declaration filed on 7/20/2006 is accepted.

Information Disclosure Statement

3. The prior art documents submitted by applicant in the Information Disclosure Statement filed on 4/2/2007 have all been considered and made of record (note the attached copy of form PTO – 1449).

Content of Specification

3. (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
- (d) The Names Of The Parties To A Joint Research Agreement: See 37 CFR 1.71(g).

Art Unit: 2873

- (e) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.
- (f) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:
 - (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."
 - (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."
- (g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (h) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (i) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where

Art Unit: 2873

elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.

- (j) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).
- (k) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).
- (l) Sequence Listing. See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 2873

A person shall be entitled to a patent unless—

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1- 13 are reject under 35 U.S.C. 102(b) as being anticipated by Le Gargasson et al (6,588,900 B1).

Regarding claim 1, Le Gargasson et al discloses (refer to figures 1 and 2) sighting device for examining the eye (5) of a subject comprising at least moving target (CA,CB) having a programmable shape , target being displayed on viewing means and visible by at least one eye (5) of subject during the examination period (column 5, lines 55-67).

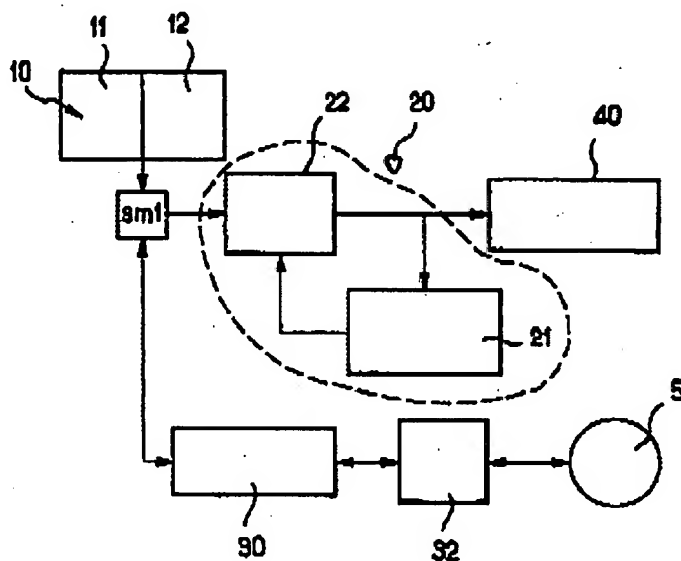


FIG.1

Regarding claim 2, Le Gargasson et al discloses characterized in that it also comprises means for moving target so as to alternate fixation intervals on a given position with intervals termed rest on one or more other positions (as shown in figure 1).

Regarding claim 3, Le Gargasson et al discloses characterized in that it also comprises means for adjusting the duration of the fixation intervals (as shown in figure 1, moving target 20).

Regarding claim 4, Le Gargasson et al discloses characterized in that it also comprises means for adjusting the diversity of the rest positions (as shown in figure 1).

Regarding claim 5, Le Gargasson et al discloses characterized in that it also comprises means for adjusting the duration of the rest positions as shown in figure 1).

Regarding claim 6, Le Gargasson et al discloses characterized in that it also comprises means for controlling (22) a continuous movement of a moving target (as shown in figure 1).

Regarding claim 7, Le Gargasson et al discloses (refer to figures 1 and 2) sighting device for examining the eye (5) of a subject comprising a display on the viewing means during the examination period, of at least one moving target (CA,CB) having a programmable shape and trajectory and visible by at least one eye of subject(column 5, lines 55-67).

Regarding claim 8, Le Gargasson et al discloses characterized in that it also comprises means for moving target so as to alternate fixation intervals on a given position with intervals termed rest on one or more other positions (as shown in figure 1).

Regarding claim 9, Le Gargasson et al discloses characterized in that it also comprises means for adjusting the duration of the fixation intervals (as shown in figure 1).

Regarding claim 10, Le Gargasson et al discloses characterized in that it also comprises means for adjusting the diversity of the rest positions (as shown in figure 1).

Regarding claim 11, Le Gargasson et al discloses characterized in that it also comprises means for adjusting the duration of the rest positions (as shown in figure 1).

Regarding claim 12, Le Gargasson et al discloses characterized in that it also comprises means for controlling (21) a continuous movement of a moving target (as shown in figure 1).

Regarding claim 13, Le Gargasson et al discloses characterized in that the tracking of the movements of the eye to be examined is carried out by imaging using a non-visible spectrum (as shown in figure 2).

5. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Le Gargasson et al (6,588,900 B1) in view of Rollins et al (7,006,232 B2).

Regarding claim 14, Le Gargasson et al discloses (refer to figures 1 and 2) system for examining the eye by in vivo tomography comprising a tomography device including: an eye (5) to be examined , producing a correction of the wavefronts originating from the eye as well as those reaching the eye and means for detection (700) , arranged downstream of the interferometer capable of carrying out, without synchronous modulation or detection and characterized in that it also comprises a sighting device comprises at least one moving target, having a programmable shape or

Art Unit: 2873

a programmable trajectory, target being displayed on viewing means and visible from at least one of the eyes of patient during the examination period (column 5, lines 55-67).

Le Gargasson et al. discloses all of the claimed limitations except Michelson interferometer and a tomography OCT set up and the interferometer measurement according to OCT principal.

However, Rollins et al discloses (refer to figure 1) a tomography OCT set up (10) and Michelson interferometer (12) (column 3, lines 55-56, column 4, lines 5-7).

It would have been obvious to one of ordinary skill in the art at the time invention was made to provide a tomography OCT set up (10) and Michelson interferometer (12) in to the Le Gargasson et al an eye examining device for the purpose of an can generate a velocity indicating image using corrected OCT interferometric data out put signal as taught by Rollins (column 2, lines 16-19).

Regarding claim 15, Le Gargasson et al discloses the sighting device and the tomography device collaborate by using an a priori knowledge of the trajectory or the shape of the target to readjust the images of the eye as a functional of trajectory (as shown in figure 1).

Allowable Subject Matter

6. Claims 16-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter: characterized that it comprises means (IRIS) of tracking movement of the eye to be examined (OEX) collaborating with the tomography device and characterized in that it comprises means to enable the image of the target to reach both eyes (OV1, OEX) of the subject to be examined and characterized in that it comprises to enable the image of the target to reach the unexamined eye of the target selectively from one side (OV1) or from the outer side (OV2) of the examined eye (OEX).

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Williams et al (5,777,719) discloses a method and apparatus for improving vision and the resolution of retinal images and Frey et al (6,271,014 B1) discloses an objective measurement of optical systems using wavefront analysis.

Art Unit: 2873

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammed Hasan whose telephone number is (571) 272-2331. The examiner can normally be reached on M-TH, 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky L Mack can be reached on (571) 272- 2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MH
August 29, 2007

M. Hasan
Mohammed Hasan
Examiner, AU-2873